

6-5-00

DAC ✓

Docket No. 1090-019

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Luneau, David J.

Serial No. To be Assigned

Filed: March 14, 2000

For: CALLING PARTY ANNOUNCEMENT  
APPARATUS

Box DAC  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231



**RECEIVED**

JUN 6 2000

OFFICE OF P...  
DEPUTY A/C P...  
A/C P...

**EXPRESS MAIL CERTIFICATE**

Express Mail Label Number: EL492496788US

Date of Deposit June 2, 2000

I hereby certify that the following attached paper and fee:

Check in the Amount of \$130

Petition under §1.181

Exhibits A - E

as being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

A handwritten signature in black ink, appearing to read "William B. Ritchie, Esq." followed by a long, stylized surname.

William B. Ritchie, Esq.  
Attorney for Applicant  
Reg. No. 33,118  
43 Jackson Street  
Concord, NH 03301  
603-225-5212

Docket No. 1090-019

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Luneau, David J.

Serial No. To be Assigned

Filed: March 14, 2000

For: CALLING PARTY ANNOUNCEMENT  
APPARATUS



JUN 6 2000

OFFICE OF PETITIONS  
DEPUTY A/C PATENTS

Box DAC  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**PETITION UNDER §1.181**

Applicant hereby petitions under 37 C.F.R. §1.181 that filing date of March 14, 2000 be granted to above-identification application.

**FACTS**

- 1) On March 10, 2000, applicant received notice that U.S. Patent No. 6,038,443 would issue on March 14, 2000. Exhibit A
- 2) At the request of the applicant, a continuing application was filed on March 14, 2000. This application properly referenced the '443 patent application as the parent. No filing fee was included but the name of the inventor was provided. This application was inadvertently identified as a "continued prosecution application CPA" rather than a "continuation" application which was clearly intended. Exhibit B
- 3) The application was sent via express mail, Exhibit C, and the return postcard indicates that the application was date stamped as March 14, 2000. Exhibit D.
- 4.) On April 10, 2000, the applicant received a Notice, dated April 7, 2000, that this application would not be granted the March 14, 2000 filing date. Exhibit E.

06/05/2000 JD00LES 00000082 08660014

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130.00 OP

**ARGUMENT**

As held in *Transco Products Inc. v. Performance Contacting*, 32 USPQ2d 1077 (Fed. Cir. 1994), it is well established law that the various terms for continuing

applications are merely terms of administrative convenience and the bottom line is that, no matter what term is used to describe a continuing application, that application is entitled to benefit of the filing date of an earlier application as to common subject matter. The subject matter and the inventorship of this application are identical to the '433 patent.

It is also well established law that the entire '443 patent may be incorporated by reference, thereby providing a complete written description, claims, and drawings. See, MPEP 608.01(p)(B). Mr. Luneau was also named as the inventor in both applications. Therefore, this application was complete as required under 1.53(b) and should have been accorded the March 14, 2000 filing date, despite the inadvertent use of the term "CPA".

In light of the above, the applicant respectfully requests that the decision in the Notice dated April 4, 2000 be reversed and the filing date of March 14, 2000 be granted the above-referenced patent application.

Respectfully submitted,



William B. Ritchie, Esq.  
Attorney for Applicant  
Reg. No. 33,118  
43 Jackson Street  
Concord, NH 03301  
603-225-5212

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARK  
Washington, D.C. 20231

112-APPLICATION NUMBER	1611777	FILING/RECEIPT DATE	LM41/0407	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
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1690-206

#16

WILLIAM B RITCHIE  
43 JACKSON STREET  
CONCORD NH 03301

LM41/0407

NGUYEN, L

2746

DATE MAILED: 04/07/00

**NOTICE OF IMPROPER CPA FILING UNDER 37 CFR 1.53(d)**  
**No Filing Date Granted**

The Continued Prosecution Application (CPA) request deposited on \_\_\_\_\_ is improper under 37 CFR 1.53(d) and has not been granted a filing date for reason(s) indicated below:

Any assertions that the above-mentioned CPA request is proper under 37 CFR 1.53(d) must be by way of petition directed to the attention of the Office of Petitions. Any such petition must be accompanied by the \$130.00 petition fee (37 CFR 1.17(i)). If the petition alleges that no defect exists, a request for refund of the petition fee may be included in the petition.

A petition under 37 CFR 1.53(e) as discussed above must be submitted within **TWO MONTHS** of the date of this notice (37 CFR 1.181(f)). **THIS TIME LIMIT MAY NOT BE EXTENDED PURSUANT TO 37 CFR 1.136.** Failure to timely file a petition under 37 CFR 1.53(e) will result in the CPA request being retained in the file of the prior application but treated as never having been filed, in which case applicant may request a refund of the CPA filing fee (if submitted) less the \$130.00 handling fee (37 CFR 1.21(n)).

1. The prior application is not a complete (37 CFR 1.51(b)) application or the national stage of a PCT international application that is in compliance with 35 U.S.C. 371.

2. The request for a CPA was not filed before the payment of the issue fee on the prior application. The issue fee was paid on the prior application on 12/13/99.

3. The request for a CPA was not filed before the abandonment of, or termination of proceedings on, the prior application. The prior application was abandoned, or proceedings terminated on \_\_\_\_\_.

4. A petition for an extension of time under 37 CFR 1.136(a) accompanied by the appropriate fee (37 CFR 1.17(a)) are necessary to establish copendency between the prior application and this CPA request.

5. OTHER: \_\_\_\_\_

**A copy of this notice MUST be returned with the reply.**

Direct any questions about this Notice to:

Examining Group 2746(703) 305-5485



Docket No. 1090-006  
Express Mail No. EL384499714US

Assistant Commissioner for patents  
Box CPA  
Washington, D.C. 20231

## CONTINUED PROSECUTION APPLICATION REQUEST TRANSMITTAL

Transmitted herewith for filing is the patent application of David J. Luneau for: CALLING PARTY ANNOUNCEMENT APPARATUS. This application is a continued prosecution application of U.S. Patent Application Serial No. 08/660,814, filed June 10, 1996.

Papers enclosed are:

Post Card  
Express Mail Certificate

RECEIVED

JUN 6 2000

Fee Calculations:

Regular application – small entity  
Total Claims – 0 Extra  
Independent Claims – 0 Extra  
Multiple Dependant Claims – None

OFFICE OF PETITIONS  
DEPUTY A/C PATENTS

The application is being filed without the filing fee. In that the specification, claims and name of the actual inventors has been provided, pursuant to 37 C.F.R. §1.53 (b), the enclosed application should be accorded to the Express Mail Certificate date under 37 C.F.R. §1.10(c).

Respectfully submitted,

William B. Ritchie  
Attorney for Applicant  
Reg. No. 33,118  
43 Jackson Street  
Concord, NH 03301  
603-225-5212

Exhibit B

Docket No. 1090-006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Luneau, David J.

Serial No. 08/660,814

Filed: June 10, 1996

For: CALLING PARTY ANNOUNCEMENT  
APPARATUS



Assistant Commissioner for Patents  
Box CPA  
Washington, D.C. 20231

**EXPRESS MAIL CERTIFICATE**

Express Mail Label Number: EL384499714US

Date of Deposit 3-14-00

I hereby certify that the following attached paper and fee:

Continued Prosecution Application Request Transmittal

as being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner of Patents and Trademarks, Washington, D.C. 20231.



William B. Ritchie, Esq.

*Exhibit C*

U.S. PATENT & TRADEMARK OFFICE

MAR 14 2000

Attorney Docket No. 1000-000 Client LLC  
 Date of Deposit 3/4/00

The Patent & Trademark Office acknowledges and has stamped hereon  
 the date of receipt of the items listed below concerning the following:

Patent Application Serial No. 09/1600214 Filed: 10-10-94  
 Patent No.

Issued: 110-10-14

Express Mail Certificate, Label No. EL 38 449711

Transmittal Letter  Small Entity Form  Declaration/Power of Attorney

Specification,        number of pages  Notice to File Missing Parts

Claims,        Independent  Multiple Dependent 0

Abstract  Sheets of Drawings  Petition to Make Special

Recordation Form Cover Sheet  Transmittal of New Drawings

Assignment  Petition for Extension of Time  Fee Addressee

Amendment  Appeal Brief  Status Inquiry  Notice of Appeal

Certificate of Mailing  Issue Fee Transmittal  Application w/ Missing Parts

Check in the Amount of \$       

Deduct Fee of \$        from Deposit Account #500229

Other       

Exhibit D



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARK  
Washington, D.C. 20231

APPLICATION NUMBER	FILED/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
10/21/00	10/21/00	NGUYEN, L	2746

WILLIAM B. RTTCHIE  
43 JACKSON STREET  
CONCORD, NH 03301

10/21/00

10/21/00

#16

NGUYEN, L

2746

DATE MAILED: 04/07/00

**NOTICE OF IMPROPER CPA FILING UNDER 37 CFR 1.53(d)**  
*No Filing Date Granted*

The Continued Prosecution Application (CPA) request deposited on \_\_\_\_\_ is improper under 37 CFR 1.53(d) and has not been granted a filing date for reason(s) indicated below:

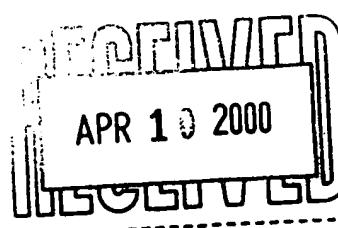
Any assertions that the above-mentioned CPA request is proper under 37 CFR 1.53(d) must be by way of petition directed to the attention of the Office of Petitions. Any such petition must be accompanied by the \$130.00 petition fee (37 CFR 1.17(i)). If the petition alleges that no defect exists, a request for refund of the petition fee may be included in the petition.

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- 5. OTHER: \_\_\_\_\_

***A copy of this notice MUST be returned with the reply.***

*Jacqueline Dickeson*  
Direct any questions about this Notice to:  
*Jacqueline Dickeson*  
Examining Group 2746  
(703) 306-5485



**Exhibit E**

PART 1 - ATTORNEY/APPLICANT COPY

ISSUE NOTIFICATION



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	PATENT NUMBER	ISSUE DATE	ATTORNEY DOCKET NO.
08/660,814	6038443	03/14/00	1090-006

8443  
WILLIAM B RITCHIE  
43 JACKSON STREET  
CONCORD NH 03301

7707



APPLICANT(S) DAVID J. LUNEAU, HOPKINTON NEW HAMPSHIRE

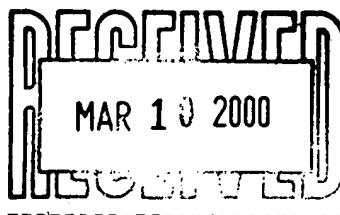


Exhibit A